

BY: YCA
TIME: 8:54 am

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **November 6, 2019**, which reads as follows:

“G.R. No. 210719 (LOVENIA RILLORTA GOROSPE, CLEMENTE MOINA SALINAS, JR., MERCEDES SARTORIO BAUTISTA, YOLANDA ANTALAN PASCUA, and PEDRITO PILIEN PILIEN, *petitioners* v. RICHARD YODONG, *respondent*). — This Court resolves a Petition for Review on Certiorari¹ filed by Lovenia Rillorta Gorospe, Clemente Moina Salinas, Jr., Mercedes Sartorio Bautista, Yolanda Antalan Pascua, and Pedrito Pilien Pilien (Gorospe, et al.). They assail the Decision² and Resolution³ of the Court of Appeals, which reversed the Regional Trial Court Order dismissing the Information against them for violation of Section 3(e) of Republic Act No. 3019 due to lack of probable cause.

Based on an Affidavit-Complaint filed by Richard Yodong (Yodong), the Office of the Ombudsman filed an April 28, 2011⁴ Information before the Baguio City Regional Trial Court against Gorospe, et al. The pertinent portion of the Information read:

That on March 13, 2008, or sometime prior or subsequent thereto, at the City of Baguio, Province of Benguet, and within the jurisdiction of this Honorable Court, the accused LOVENIA R. GOROSPE, CLEMENTE M. SALINAS, JR., MERCEDES S. BAUTISTA, YOLANDA A. PASCUA and PEDRITO P. PILIEN, all public officers, they comprising the Bids and Awards Committee of the Baguio Teacher’s Camp, committing the crime herein charged in relation to their official functions, conspiring and confederating with one another, did then

¹ Rollo, pp. 3–46.

² Id. at 48–58. The May 16, 2013 Decision was penned by Associate Justice Isaias Dicdican and concurred in by Associate Justices Myra V. Garcia-Fernandez and Nina G. Antonio-Valenzuela of the Special Thirteenth Division, Court of Appeals, Manila.

³ Id. at 61–62. The December 18, 2013 Resolution was penned by Associate Justice Isaias Dicdican and concurred in by Associate Justices Myra V. Garcia-Fernandez and Nina G. Antonio-Valenzuela of the Former Special Thirteenth Division, Court of Appeals, Manila.

⁴ Id. at 51.

and there, wilfully, unlawfully and criminally, through evident bad faith or manifest partiality, recommend the award to Nicholas Jift Construction, construction projects, particularly, package no. 4 (Construction of amphitheater and landscaping around it and in front of Albert Hall) and package no. 6 (Landscaping of Teacher's Camp major road with two (2) rotundas and three (3) parking areas), despite its obvious disqualifications for submitting personal checks, which are not acceptable forms of bid security under Instruction to Bidders, Bid Data Sheet and R.A. No. 9184 Implementing Rules and Regulations thereby bestowing upon Nicholas Jift Construction unwarranted advantage and benefit in the amount of Php17,159,823.00 representing the aggregate amount of the contract price of said properties, which were eventually awarded to the same.

CONTRARY TO LAW.⁵

The case was docketed as Criminal Case No. 32409-R.⁶ Gorospe, et al. later filed a Motion for Judicial Determination of Probable Cause with prayer to quash the Information.⁷

In its April 4, 2012 Order,⁸ the trial court granted the Motion and dismissed the case for lack of probable cause. The pertinent portion of the Order read:

Based on the foregoing discussions, the Court finds no probable cause to sustain a conviction against the herein accused for the crime herein charged and for them to stand the rigors of trial. Probable cause is meant such set of facts and circumstances which would lead a reasonably discreet and prudent man to believe that the offense charged in the Information or any offense included therein has been committed by the person sought to be arrested. It must be stressed that probable cause demands more than bare suspicion, it requires less than evidence which would justify conviction. A suspicion that the herein accused acted with bad faith and evident partiality is not identical to probable cause.

WHEREFORE, the above-entitled case is hereby ordered DISMISSED for lack of probable cause.

SO ORDERED.⁹ (Citations omitted)

Yodong moved for reconsideration, but this Motion was denied in the

⁵ Id. at 64-65.

⁶ Id. at 64.

⁷ Id. at 66.

⁸ Id. at 64-68.

⁹ Id. at 68.

Regional Trial Court's July 23, 2012 Order.¹⁰

Aggrieved, Yodong filed before the Court of Appeals a Petition for Certiorari, questioning the case's dismissal.¹¹

On May 16, 2013, the Court of Appeals issued a Decision¹² granting the Petition for Certiorari. The dispositive portion of the Decision read:

WHEREFORE, in view of the foregoing premises, the petition filed in this case is hereby GRANTED. The assailed Orders dated April 24, 2012 and July 23, 2012 of the Regional Trial Court, Branch 5 in Baguio City in Criminal Case No. 32409-R are hereby REVERSED and SET ASIDE. Accordingly, Criminal Case No. 32409-R is hereby REINSTATED and the respondent trial court is directed to proceed with further proceedings therein.

SO ORDERED.¹³

The Court of Appeals found that the Regional Trial Court gravely abused its discretion when it dismissed the case. It held that a judicial determination of probable cause is limited to determining if a warrant of arrest should be issued against the accused. Thus, when the Regional Trial Court found that there was no probable cause and dismissed the case, it committed grave abuse of discretion.¹⁴

Gorospe, et al.'s Motion for Reconsideration was likewise denied in the Court of Appeals' December 18, 2013 Resolution.¹⁵ Thus, they filed a Petition for Review on Certiorari.¹⁶

While this Petition was pending, Criminal Case No. 32409-R proceeded in the Regional Trial Court. There, as manifested¹⁷ by Gorospe, et al. in their March 21, 2017 Reply,¹⁸ the trial court issued a November 19, 2015 Order¹⁹ dismissing the case, this time due to a violation of the accused's right to a speedy trial. The dispositive portion of the November 19, 2015 Order read:

¹⁰ Id. at 52.

¹¹ Id.

¹² Id. at 48-58.

¹³ Id. at 57.

¹⁴ Id. at 55-56.

¹⁵ Id. at 61-62.

¹⁶ Id. at 3-46.

¹⁷ Id. at 235-241.

¹⁸ Id. at 230-247.

¹⁹ Id. at 248-249.

WHEREFORE, this case is hereby DISMISSED. Accordingly, the cash bond deposited by each accused for their provisional liberty under Official Receipt Numbers 1898340, 1898290, 1898289, and 1898291, all in the amount of P30,000.00 is hereby ordered released to the respective payors.²⁰

In its Order, the Regional Trial Court found that the private prosecutor caused several delays in the preliminary conference and pre-trial of the case. The preliminary conference, originally set on August 12, 2014, was eventually terminated on March 18, 2015 due to the private prosecutor's repeated motions for its cancellation.²¹ Likewise, the May 26, 2015 and June 29, 2015 pre-trials were canceled upon the private prosecutor's motion. Even the succeeding pre-trial set on September 9, 2015 was also cancelled since the private prosecutor could not produce the documents intended as evidence.²² When, during the November 11, 2015 pre-trial, the private prosecutor again moved for its cancellation, Gorospe, et al.'s counsels objected to its resetting and moved that Criminal Case No. 32409-R be dismissed, which the trial court granted.²³

Yodong's Motion for Reconsideration was likewise denied in a December 22, 2015 Order.²⁴

In a Petition for Certiorari docketed as CA-G.R. SP No. 144857, Yodong assailed the trial court's November 19, 2015 and December 22, 2015 Orders. However, in a May 18, 2016 Resolution,²⁵ the Court of Appeals dismissed the Petition on procedural grounds. As Yodong did not file a motion for reconsideration, the dismissal of his Petition became final and executory,²⁶ and entry of judgment was made on July 1, 2016.²⁷

In their Reply, Gorospe, et al. pray that this Court grant their Petition for Review and reinstate the trial court's 2012 Orders dismissing the case for lack of probable cause.²⁸ However, since the trial court's November 19, 2015 Order dismissing Criminal Case No. 32409-R has long become final and executory, any resolution of this Petition for Review has no practical effect and will only be superfluous.

²⁰ Id. at 249.

²¹ Id. at 248.

²² Id. at 248-249.

²³ Id. at 249.

²⁴ Id. at 250.

²⁵ Id. at 252-255. The Resolution was penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Ricardo R. Rosario and Marie Christine Azacarraga-Jacob of the Sixteenth Division, Court of Appeals, Manila.

²⁶ Id. at 256.

²⁷ Id. at 257.

²⁸ Id. at 244.

WHEREFORE, the Petition for Review on Certiorari is **DISMISSED** for being moot. This case is declared **CLOSED** and **TERMINATED**.

SO ORDERED.” (Gesmundo, J., on leave.)

Very truly yours,

Misael PDC Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court

*gmw
11/24/19*

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 5, Baguio City
(Criminal Case No. 32409-R)

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